IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO.83 OF 2006

IN

NOTICE OF MOTION NO.67 OF 2006

IN

LONG CAUSE SUIT NO.50 OF 2006

ALONG WITH

CIVIL APPLICATION NO.93 OF 2006

Rakesh S/o Amrit Nahata ...Appellant

Versus

M/s.Tele Tracks Advertising (Bo)
P.Ltd. & Ors. ...Respondents

.....

Mr.S.A.Chaurasia i/b Mr.A.M.Saraogi for Appellant.

Mr.Rahul Mehta i/b KMC Legal Ventures for Respondent No.1.

Mr.A.R.Patil, A.G.P. for Respondent No.2.

Mrs.Geeta Joglekar for Respondent No.3.

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CORAM: A.M.KHANWILKAR, J.

FEBRUARY 23, 2006.

P.C.

1. Mr.Srivastava made request for adjournment on the ground that Mr.Saraogi has gone to Bangalore to attend marriage of his relative. I see no reason to adjourn this matter on the request made in the above terms.

2. The limited issue for which this matter was kept today under caption direction was to ascertain the correctness of the stand taken by the Respondent No.1 that the Respondent No.1 has now received permission from the Corporation to change of user from residential to non-residential. The fact that such permission has been granted is not in dispute. According to the Appellant, however, the Authority is in the process of revoking that permission. This Court is not concerned with that issue.

3. In the present Appeal from Order, the limited issue that will have to be considered is: whether the Court below was justified in passing order directing the Defendants to observe the condition put in the reasoned part of the order for the reasons recorded in Paragraph 6 of the impugned

order.

4. So far as that direction is concerned, no interference is warranted in that behalf, as that will be the just order to be passed in the given situation. Now that the Corporation has already granted permission, it is for the Appellant to take recourse to such remedy as may be permissible by law against the said permission, if so advised.

5. Suffice it to observe that having regard to the limited controversy involved in the main Notice of Motion, which is still pending for consideration before the Trial Court, this Appeal is disposed of leaving all questions in the said Notice of Motion open, to be decided on merits, in accordance with law with further hope that the Notice of Motion will be disposed of expeditiously.

6. I am informed by the Counsel appearing for the parties that the Notice of Motion is already fixed for hearing on 28th February 2006. If it is so, no further direction is required, except to repeat that the Trial Court will be well advised to

dispose of the Notice of Motion as expeditiously as possible, preferably not later than three months from today.

7. This Appeal and the cognate Civil Application is disposed of on the above terms.

A.M.KHANWILKAR, J.